

Act [...] of 2024

on Action for the Benefit of Hungarian Consumers and Businesses

1. §

(1) Section 2 of Act CVIII of 2001 on E-commerce and Certain Issues Regarding Information Society Services shall be complemented with the following new point 11a:

(For the purposes of this Act)

'11a) *Gatekeeper*: an undertaking designated as gatekeeper pursuant to Article 3 of Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on Competitive and Fair Markets in the Digital Sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Marketplaces Act);'

(2) Section 2 of Act CVIII of 2001 on E-commerce and Certain Issues Regarding Information Society Services shall be complemented with the following new point 17a:

(For the purposes of this Act)

'17a) *Online accommodation referral service*: an undertaking providing online commercial services to accommodation providers and consumers with a view to linking the range offered by accommodation providers to the consumer accommodation demand, which ensures the sale of accommodation services in addition to the provision of information in the course of accommodation referral activities;'

2. §

The following sub-heading is added to Act CVIII of 2001 on Certain Aspects of Electronic Commerce Services And Information Society Services:

‘Certain rules on the activities of gatekeepers

12/C. §

(1) If the contract between the gatekeeper and the consumer residing in Hungary or the business established in Hungary is governed by a law other than Hungarian law in matters not covered by the contract or on the interpretation of the contract, the gatekeeper shall provide the consumer residing in Hungary or the business established in Hungary with independent legal advice on the applicable law in an accessible manner and in the Hungarian language.

(2) The payment period laid down for the gatekeeper in the contract between the gatekeeper and the undertaking established in Hungary shall not exceed 45 days from the date of performance.

(3) The risk of exchange rate fluctuations shall not be charged solely to a consumer resident in Hungary or to a company established in Hungary for contracts concluded with the gatekeeper in which the performance takes place in different currencies.

(4) The gatekeeper providing services to the territory of Hungary shall operate a customer service and complaint-handling mechanism in the Hungarian language that is

- (a) Personal,
- (b) Over-the-phone,

(c) Allows for electronic access,
and operates in Hungary.

(5) The gatekeeper shall respond to the complaint received from the company within 30 days.

(6) If the gatekeeper employs a personal participation procedure in the handling of complaints, in the case of complaints from consumers residing in Hungary or from businesses established in Hungary, the procedure shall be conducted in the territory of Hungary in the Hungarian language.'

3. §

The following sub-heading is added to Act CVIII of 2001 on Certain Aspects of Electronic Commerce Services And Information Society Services:

'Rules for the activities of online accommodation referral services

12/D. §

(1) For the purposes of this Act, accommodation and accommodation services shall be understood as those defined in Act CLXIV of 2005 on Commerce. For the purposes of this Act, an accommodation service provider is an individual resident in Hungary and an enterprise established in Hungary that provides accommodation services.

(2) The online accommodation referral service shall operate a customer service and complaint-handling mechanism in the Hungarian language that is

(a) Personal,

(b) Over-the-phone,

(c) Allows for electronic access,

and operates in Hungary if its service covers at least three counties in Hungary.

(3) The online accommodation referral service shall respond on the merits of the complaint received from the accommodation provider within 30 days.

(4) It is prohibited for an online accommodation referral service that is not a gatekeeper to use unfair contractual terms in the contract concluded with the accommodation provider. Any unfair contractual term which has become part of the contract as a standard contractual term shall be null and void.

(5) In particular, the following are unfair contractual terms

(a) The exclusion of the right of the accommodation provider to apply to the administrative authorities in Hungary;

(b) Setting a payment term for the online accommodation referral services that is indefinite or longer than 45 days from the date of performance;

(c) Prohibiting or restricting the accommodation provider from offering the accommodation service at a lower price than the price agreed in the contract with the online accommodation referral service;

(d) In the case of a reciprocal payment obligation, the unilateral imposition of a payment guarantee on the accommodation provider, in particular the provision of a deposit or other security or the application of default interest;

(e) A requirement that in the event of a settlement dispute between the online accommodation referral service and the accommodation provider, the accommodation provider must pay the

- online accommodation referral service the amount in dispute;
- (f) The exclusion of the liability of the online accommodation referral service vis-à-vis the accommodation provider for the conduct of a third party involved by the online accommodation referral service for the execution of its contractual obligation;
 - (g) The complete exclusion of liability of the online accommodation referral service towards the accommodation provider in relation to the content of any third party reviews published by the online accommodation referral service.'

4. §

Act CVIII of 2001 on Certain Aspects of Electronic Commerce Services and Information Society Services is hereby amended with the addition of the following Section 16/I:

'16/I. §

In case of infringement of the provisions of Section 12/C and 12/D, the Hungarian Competition Authority shall proceed in competition supervision proceedings according to provisions governing the violation of Section 21 of Act LVII of 1996 on the Prohibition of Unfair Market Practices and Restriction of Competition with the proviso that, regarding violations under Paragraph 12/C and 12/D, the rules on notification under Chapter IX of Act LVII of 1996 on the Prohibition of Unfair Market Practices and Restriction of Competition shall not apply.'

5. §

Section 18 of Act CVIII of 2001 on E-commerce and Certain Issues Regarding Information Society Services shall be complemented by the following paragraph (4):

'(4) Sections 12/C and 12/D of this Act, as stipulated in Articles 5-7 of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society Services, have been notified in advance.'

6. §

This Act shall enter into force on 1 May 2024.

7. §

The requirement for the prior notification of Section 2 and Section 3 as stipulated in Articles 5-7 of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society Services, has been met.'